

Bill No. SB 1454

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Proposed Committee Substitute by the Committee on Criminal
Justice

1 A bill to be entitled

2 An act relating to juvenile sexual offenders;

3 amending s. 985.03, F.S.; defining the terms,

4 "psychosexual evaluation" and "qualified sexual

5 offender therapist"; amending s. 985.229, F.S.;

6 requiring the court to order a psychosexual

7 evaluation for a juvenile sexual offender;

8 specifying requirements for provision of the

9 psychosexual evaluation results and

10 recommendations to the court; amending s.

11 985.23, F.S.; requiring a predisposition report

12 to include an evaluation of the results and

13 recommendations of a psychosexual evaluation;

14 amending s. 985.231, F.S.; conforming a

15 cross-reference; requiring the court to

16 consider psychosexual evaluation prior to

17 imposition of a community-based juvenile sexual

18 offender treatment program; repealing

19 authorization for a comprehensive assessment of

20 sexually deviant behavior; revising terms to

21 conform; amending s. 985.31, F.S.; conforming

22 cross-references; amending s. 985.3141, F.S.;

23 conforming a cross-reference; creating a task

24 force on juvenile sexual offenders and their

25 victims; providing membership; providing

26 duties; requiring a report; providing for

27 administrative support; authorizing per diem

28 and travel reimbursement; providing for

29 dissolution of the task force; providing an

30 effective date.

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1 Be It Enacted by the Legislature of the State of Florida:

2

3 Section 1. Section 1. Subsections (45) through (60)
4 of section 985.03, Florida Statutes, are renumbered as
5 subsections (47) through (62), and new subsections (45) and
6 (46) are added to said section to read:

7 985.03 Definitions.--As used in this chapter, the
8 term:

9 (45) "Psychosexual evaluation" means an evaluation by a
10 qualified sexual offender practitioner, which addresses, at a
11 minimum, a juvenile sexual offender's:

12 (a) Account of the incident and the official report of
13 the investigation.

14 (b) Sexual development and sexual delinquency history
15 and treatment.

16 (c) Behavioral and delinquency history.

17 (d) Substance abuse and mental health history and
18 treatment.

19 (e) Intellectual, personality, and trauma assessment.

20 (f) Physiological assessment if appropriate.

21 (g) Family, social, educational, and employment
22 situation, including identification of the sources of this
23 information.

24 (h) Risk for committing a future act of sexual
25 delinquency or physical harm to himself, herself, the victim,
26 or other persons.

27 (i) Culpability assessment.

28 (j) Diagnosis.

29 (k) Amenability to treatment, including treatment
30 recommendations specific to his or her needs.

31 (46) "Qualified Sexual Offender Practitioner" means a

professional who is eligible to practice juvenile sexual
offender therapy under s. 490.0145 or s. 491.0144, and who:

(a) Possesses at least:

1. Fifty-five hours of post-graduate degree continuing
education courses in one or more of the following areas:
DSM-IV diagnoses related to sexual offenders; etiology of
sexual deviance; science-based sexually delinquent evaluation
and risk assessment and treatment techniques; use of
plethysmographs, visual reaction time, and polygraphs in the
evaluation, treatment, and monitoring of juveniles who have
committed sexually delinquent acts; evaluation and treatment
of special populations; or legal and ethical issues in the
evaluation and treatment of juveniles who have committed
sexually delinquent acts.

2. Two thousand hours of post-graduate degree practice
in the evaluation and treatment of persons who have committed
sexually delinquent acts, which was directly supervised by a
professional eligible to practice juvenile sexual offender
therapy under s. 490.0145 or s. 491.0144; or

(b) Is supervised by a professional who satisfies the
requirements of paragraph (a).

Section 2. Subsection (4) of section 985.229, Florida
Statutes, is created to read:

985.229 Predisposition report; other evaluations.--

(4) Following a delinquency adjudicatory hearing under
s. 985.228 for a juvenile sexual offender, the court shall
order the department to conduct or arrange for a psychosexual
evaluation of the offender. The results and recommendations of
the psychosexual evaluation shall be:

(a) Included in the offender's predisposition report;
or

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1 (b) Provided to the court in writing at least 48 hours
2 prior to the disposition hearing, if a predisposition report
3 is not ordered in the juvenile sexual offender's case.

4 Section 3. Paragraph (i) of subsection (2) of section
5 985.23, Florida Statutes, is created to read:

6 985.23 Disposition hearings in delinquency
7 cases.--When a child has been found to have committed a
8 delinquent act, the following procedures shall be applicable
9 to the disposition of the case:

10 (2) The first determination to be made by the court is
11 a determination of the suitability or unsuitability for
12 adjudication and commitment of the child to the department.
13 This determination shall include consideration of the
14 recommendations of the department, which may include a
15 predisposition report. The predisposition report shall
16 include, whether as part of the child's multidisciplinary
17 assessment, classification, and placement process components
18 or separately, evaluation of the following criteria:

19 (i) The results and recommendations of a psychosexual
20 evaluation for a juvenile sexual offender.

21
22 At the time of disposition, the court may make recommendations
23 to the department as to specific treatment approaches to be
24 employed.

25
26 It is the intent of the Legislature that the criteria set
27 forth in subsection (2) are general guidelines to be followed
28 at the discretion of the court and not mandatory requirements
29 of procedure. It is not the intent of the Legislature to
30 provide for the appeal of the disposition made pursuant to
31 this section.

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1 Section 4. Subsections (2) and (3) of section 985.231,
2 Florida Statutes, are amended to read:

3 985.231 Powers of disposition in delinquency cases.--

4 (2) Following a delinquency adjudicatory hearing
5 pursuant to s. 985.228 and a delinquency disposition hearing
6 pursuant to s. 985.23 which results in a commitment
7 determination, the court shall, on its own or upon request by
8 the state or the department, determine whether the protection
9 of the public requires that the child be placed in a program
10 for serious or habitual juvenile offenders and whether the
11 particular needs of the child would be best served by a
12 program for serious or habitual juvenile offenders as provided
13 in s. 985.31. The determination shall be made pursuant to ss.
14 985.03(51) ~~985.03(49)~~ and 985.23(3).

15 (3)(a) Following a delinquency adjudicatory hearing
16 pursuant to s. 985.228 for a juvenile sexual offender, the
17 court, after consideration of the psychosexual evaluation
18 required by s. 985.229(4), may on its own or upon request by
19 the state or the department and subject to specific
20 appropriation, determine whether a community-based juvenile
21 sexual offender treatment program would protect ~~placement is~~
22 ~~required for the protection of the public and what would be~~
23 ~~the best approach to address the offender's treatment needs of~~
24 ~~the juvenile sexual offender. When the court determines that~~
25 ~~a juvenile has no history of a recent comprehensive assessment~~
26 ~~focused on sexually deviant behavior, the court may, subject~~
27 ~~to specific appropriation, order the department to conduct or~~
28 ~~arrange for an examination to determine whether the juvenile~~
29 ~~sexual offender is amenable to community-based treatment.~~

30 ~~(a) The report of the examination shall include, at a~~
31 ~~minimum, the following:~~

~~1. The juvenile sexual offender's account of the incident and the official report of the investigation.~~

~~2. The juvenile sexual offender's offense history.~~

~~3. A multidisciplinary assessment of the sexually deviant behaviors, including an assessment by a certified psychologist, therapist, or psychiatrist.~~

~~4. An assessment of the juvenile sexual offender's family, social, educational, and employment situation. The report shall set forth the sources of the evaluator's information.~~

~~(b) The report shall assess the juvenile sexual offender's amenability to treatment and relative risk to the victim and the community.~~

~~(b)(c)~~ The department shall provide a proposed plan to the court that shall include, at a minimum, for the community-based juvenile sexual offender treatment program:

1. The frequency and type of contact between the offender and therapist.

2. The specific issues and behaviors to be addressed in the treatment and description of planned treatment methods.

3. Monitoring plans, including any requirements regarding living conditions, school attendance and participation, lifestyle, and monitoring by family members, legal guardians, or others.

4. Anticipated length of treatment.

5. Recommended crime-related prohibitions and curfew.

6. Reasonable restrictions on the contact between the ~~juvenile sexual~~ offender and either the victim or alleged victim.

~~(c)(d)~~ After receipt of the ~~report on the~~ proposed plan under paragraph (b) ~~of treatment~~, the court shall

1 consider whether the community and the offender will benefit
2 from a community-based ~~use of~~ juvenile sexual offender
3 ~~community-based~~ treatment program ~~alternative disposition~~ and
4 consider the opinion of the victim or the victim's family as
5 to whether the offender should receive this ~~a community-based~~
6 ~~treatment~~ alternative disposition ~~under this subsection.~~

7 (d)(e) If the court determines that a community-based
8 ~~this~~ juvenile sexual offender ~~community-based~~ treatment
9 program ~~alternative~~ is appropriate, the court may place the
10 offender on probation ~~community supervision~~ for up to 3 years.
11 As a condition of probation ~~community treatment and~~
12 ~~supervision~~, the court may order the offender to:

13 1. Undergo available community-based ~~outpatient~~
14 juvenile sexual offender treatment for up to 3 years. A
15 program or provider may not be used for such treatment unless
16 it has an appropriate program designed for juvenile sexual
17 offender treatment. The department shall not change the
18 treatment provider without first notifying the state
19 attorney's office.

20 2. Remain within described geographical boundaries and
21 notify the court or the department ~~counselor~~ prior to any
22 change in the offender's address, educational program, or
23 employment.

24 3. Comply with all requirements of the treatment plan.

25 (e)(f) The community-based juvenile sexual offender
26 treatment provider shall submit quarterly reports on the
27 offender's ~~respondent's~~ progress in treatment to the court and
28 the parties to the proceedings. The quarterly ~~juvenile sexual~~
29 ~~offender~~ reports shall reference the treatment plan and
30 include, at a minimum, the following:

31 1. Dates of attendance.

2. The ~~juvenile sexual~~ offender's compliance with the requirements of treatment.

3. A description of the treatment activities.

4. The ~~sexual~~ offender's relative progress in treatment.

5. The offender's family support of the treatment objectives.

6. Any other material specified by the court at the time of the disposition.

~~(f)(g)~~ At the disposition hearing, the court may set case review hearings as the court considers appropriate.

~~(g)(h)~~ If the ~~juvenile sexual~~ offender violates any condition of the disposition or the court finds that the ~~juvenile sexual~~ offender is failing to make satisfactory progress in treatment, the court may revoke the offender's probation ~~community-based treatment alternative~~ and order commitment to the department pursuant to subsection (1).

~~(h)(i)~~ If the court determines that the ~~juvenile sexual~~ offender is not amenable to community-based juvenile sexual offender treatment program, the court shall proceed with a juvenile sexual offender disposition hearing pursuant to subsection (1).

Section 5. Paragraph (e) of subsection (3) and paragraph (a) of subsection (4) and of section 985.31, Florida Statutes, are amended to read:

985.31 Serious or habitual juvenile offender.--

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.--

(e) After a child has been adjudicated delinquent pursuant to s. 985.228, the court shall determine whether the child meets the criteria for a serious or habitual juvenile

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offender pursuant to s. 985.03(51) ~~985.03(49)~~. If the court determines that the child does not meet such criteria, the provisions of s. 985.231(1) shall apply.

(4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

(a) Pursuant to the provisions of this section, the department shall implement the comprehensive assessment instrument for the treatment needs of serious or habitual juvenile offenders and for the assessment, which assessment shall include the criteria under s. 985.03(51) ~~985.03(49)~~ and shall also include, but not be limited to, evaluation of the child's:

1. Amenability to treatment.
2. Proclivity toward violence.
3. Tendency toward gang involvement.
4. Substance abuse or addiction and the level thereof.
5. History of being a victim of child abuse or sexual abuse, or indication of sexual behavior dysfunction.
6. Number and type of previous adjudications, findings of guilt, and convictions.
7. Potential for rehabilitation.

Section 6. Subsection (2) of section 985.3141, Florida Statutes, is amended to read:

985.3141 Escapes from secure detention or residential commitment facility.--An escape from:

(2) Any residential commitment facility described in s. 985.03(48) ~~985.03(46)~~, maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or constitutes escape within the intent and meaning of s. 944.40 and is a felony of the third degree, punishable as provided in

1 s. 775.082, s. 775.083, or s. 775.084.

2 Section 7. Task Force on Juvenile Sexual Offenders and
3 their Victims.--

4 (1) For purposes of this section, the term:

5 (a) "Department" means the Department of Juvenile
6 Justice.

7 (b) "Task force" means the 2006 Task Force on Juvenile
8 Sexual Offenders and their Victims.

9 (2) On or before August 1, 2006, there shall be
10 created a task force to continue the evaluation of the state's
11 juvenile sexual offender laws which was conducted by the 2005
12 Task Force on Juvenile Sexual Offenders and their Victims, as
13 created in ch. 2005-263, Laws of Florida.

14 (3) The Secretary of the department shall appoint up
15 to 12 members to the task force, who shall include, but are
16 not limited to: a circuit court judge with at least one year
17 of experience in the juvenile division, a state attorney with
18 at least one year experience in the juvenile division, a
19 public defender with at least one year of experience in the
20 juvenile division, two representatives of the department, one
21 member from the Florida Juvenile Justice Association, two
22 members from providers of juvenile sexual offender services,
23 one member from the Florida Association for the Treatment of
24 Sexual Abusers, and one victim advocate.

25 (4) The task force shall:

26 (a) Review the findings and recommendations contained
27 in the final report of the 2005 Task Force on juvenile Sexual
28 Offenders and their Victims, including the recommendations
29 specified in Appendix II of that report, and identify each
30 recommendation that has not yet been implemented.

31 (b) Determine which recommendations reviewed under

paragraph (a) remain appropriate for implementation.

(c) Make additional recommendations, if warranted, for the improvement of the state's laws, policies, programs, and funding for juvenile sexual offenders.

(d) Submit a written report to the Governor and the appropriate substantive and fiscal committees of the Legislature no later than January 1, 2007, that: discusses each state law addressing juvenile sexual offenders; specifically identifies statutory criteria that should be satisfied before a juvenile is classified as a sexual offender or placed in sexual offender programming; and sets forth detailed findings in support of each recommendation under paragraphs (b) and (c) and a comprehensive plan for implementation of these recommendations, including proposed amendments to statute and modifications of state agency rules, practices, and procedures.

(5) The department shall provide administrative support for the task force. Members of the task force shall receive no salary from the state beyond the salary already received from their sponsoring agencies, but shall be entitled to reimbursement by the department for travel and per diem expenses under s. 112.061, Florida Statutes.

(6) The task force shall be dissolved upon submission of its report.

Section 8. This act shall take effect July 1, 2006.